

§ 58-28-20. Cease and desist orders; judicial review.

(a) Whenever the Commissioner has reasonable grounds to believe that any person is violating or is about to violate G.S. 58-28-5, 58-28-45, or 58-33-95, the Commissioner may, after notice and opportunity for hearing, make written findings and issue and cause to be served upon the person an order to cease and desist violating G.S. 58-28-5, 58-28-45, or 58-33-95.

(b) Until the expiration of the time allowed under G.S. 58-2-75 for filing a petition for review, the Commissioner may at any time, upon notice and in a manner the Commissioner considers proper, modify or set aside in whole or in part any order issued by the Commissioner under this section as follows:

- (1) Any time before the expiration of the time allowed for seeking judicial review, if no petition for review has been filed; or
- (2) If a petition for review has been timely filed, until the transcript of the record in the proceeding has been filed with the Court.

(c) If no petition for judicial review has been filed within the time provided under G.S. 58-2-75, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by the Commissioner under this section, whenever in the Commissioner's opinion conditions of fact or of law have so changed as to require such action or if the public interest requires.

(d) Whenever the Commissioner has evidence that any person has or is violating G.S. 58-28-5 or G.S. 58-28-45, or has or is violating any order or requirement of the Commissioner issued by the Commissioner under this Article, and that the interests of policyholders, creditors, or the public may be irreparably harmed by delay, the Commissioner may issue an emergency cease and desist order that shall become effective on the date specified in the order or upon service of a certified copy of the order upon the person ordered to cease and desist, whichever is later. The emergency cease and desist order shall also include a notice of hearing, which shall be conducted as provided under Article 3A of Chapter 150B of the General Statutes. However, the person ordered to cease and desist under this subsection may request and shall be granted an expedited review of the order. The emergency order shall remain in effect prior to and during the proceedings, unless modified by the Commissioner as provided under subsection (b) of this section.

(e) Any person required to cease and desist violating G.S. 58-28-5 by an order issued after notice and a hearing under subsection (a) or (d) of this section may seek judicial review of that order under G.S. 58-2-75. (1967, c. 909, s. 1; 1987, c. 864, s. 61; 1989, c. 485, s. 14; 1999-294, s. 6; 2005-217, s. 1; 2007-305, ss. 2, 3.)